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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 John Ernest Wilkeson,

7 Plaintiffs,

8 v.

9 Allied Universal Security Services,

10 Defendant.

Case No. 2:23-cv-01977-GMN-DJA

11 **Order**

12 Pro se Plaintiff John Ernest Wilkeson filed an application to proceed *in forma pauperis*.
13 (ECF No. 1). However, Plaintiff's application is missing certain information. The Court thus
14 denies Plaintiff's application without prejudice. The Court also denies Plaintiff's pending
15 motions because he provides no authority for the relief he seeks. (ECF Nos. 4 and 5). Finally,
the Court will require Plaintiff to update his address.

16 **I. Discussion.**

17 **A. *Plaintiff's application to proceed in forma pauperis.*¹**

18 Under 28 U.S.C. § 1915(a)(1), a plaintiff may bring a civil action "without prepayment of
19 fees or security therefor" if the plaintiff submits a financial affidavit that demonstrates the
20 plaintiff "is unable to pay such fees or give security therefor." The Ninth Circuit has recognized
21 that "there is no formula set forth by statute, regulation, or case law to determine when someone
22 is poor enough to earn [*in forma pauperis*] status." *Escobedo v. Applebees*, 787 F.3d 1226, 1235
23 (9th Cir. 2015). An applicant need not be destitute to qualify for a waiver of costs and fees, but
24 he must demonstrate that because of his poverty he cannot pay those costs and still provide

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¹ Proceeding "*in forma pauperis*" is another way to refer to proceeding without paying the filing
28 fee.

1 himself with the necessities of life. *Adkins v. E.I DuPont de Nemours & Co.*, 335 U.S. 331, 339
2 (1948).

3 The applicant's affidavit must state the facts regarding the individual's poverty "with
4 some particularity, definiteness and certainty." *United States v. McQuade*, 647 F.2d 938, 940
5 (9th Cir. 1981) (citation omitted). If an individual is unable or unwilling to verify his or her
6 poverty, district courts have the discretion to make a factual inquiry into a plaintiff's financial
7 status and to deny a request to proceed *in forma pauperis*. See, e.g., *Marin v. Hahn*, 271
8 Fed.Appx. 578 (9th Cir. 2008) (finding that the district court did not abuse its discretion by
9 denying the plaintiff's request to proceed *in forma pauperis* because he "failed to verify his
10 poverty adequately"). "Such affidavit must include a complete statement of the plaintiff's
11 personal assets." *Harper v. San Diego City Admin. Bldg.*, No. 16-cv-00768 AJB (BLM), 2016
12 U.S. Dist. LEXIS 192145, at *1 (S.D. Cal. June 9, 2016). Misrepresentation of assets is sufficient
13 grounds for denying an *in forma pauperis* application. Cf. *Kennedy v. Huibregtse*, 831 F.3d 441,
14 443-44 (7th Cir. 2016) (affirming dismissal with prejudice after litigant misrepresented assets on
15 *in forma pauperis* application).

16 Plaintiff's application is missing certain information. Plaintiff did not sign the affidavit in
17 support of the application on page 1. Plaintiff also provides that his only bills are food, clothing,
18 and laundry. However, on the docket, Plaintiff includes an address. The Court takes judicial
19 notice of the fact that public records reveal that the address is a house. Plaintiff does not provide
20 any details in the application about whether he pays rent or a mortgage and if or how he pays
21 utilities or other bills. Additionally, Plaintiff has left many of the questions blank. The Court
22 thus finds that Plaintiff has omitted information from the application. As a result, the Court
23 cannot determine whether Plaintiff qualifies for *in forma pauperis* status.

24 The Court will give Plaintiff one opportunity to file a complete *in forma pauperis*
25 application. The Court further orders that Plaintiff may not respond with a zero or "not
26 applicable" in response to any question without providing an explanation for each of the
27 questions. Plaintiff also may not leave any questions blank.
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1 The Court denies Plaintiff's *in forma pauperis* application without prejudice. The Court
2 gives Plaintiff 30 days to file an updated application. Plaintiff must fully answer all applicable
3 questions and check all applicable boxes. Plaintiff may alternatively pay the filing fee in full.
4 Since the Court denies Plaintiff's application, it does not screen the complaint at this time.

5 ***B. Plaintiff's pending motions.***

6 Plaintiff has filed a motion for "judicial rel[ie]f in the form of access to a
7 printer/fax/scanner including but limited to [sic] paper and ink." (ECF No. 4). He has also
8 moved "for judicial rel[ie]f in the form of the federal witness protection program due to the fact
9 that [he] ha[s] received [multiple] threats of violence and death by many employees of [A]llied
10 [U]niversal [S]ecurity [S]ervices..." (ECF No. 5). However, the Court is not aware of any
11 authority for the proposition that the Court can provide a litigant access to office supplies or that
12 Plaintiff has any constitutional right to be placed in a witness protection program based on
13 speculative harm. And Plaintiff does not cite to any law in support of his requests. The Court
14 thus denies his motions.

15 ***C. Plaintiff must update his address.***

16 The Court recently received mail to Plaintiff returned as undeliverable. (ECF No. 6). The
17 Court will thus require Plaintiff to update his address as required by Local Rule IA 3-1. That rule
18 provides, in part, that a "pro se party must immediately file with the court written notification of
19 any change of mailing address, email address, telephone number, or facsimile number...Failure to
20 comply with this rule may result in the dismissal of the action, entry of default judgment, or other
21 sanctions as deemed appropriate by the court."

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23 **IT IS THEREFORE ORDERED** that Plaintiff's application to proceed *in forma*
24 *pauperis* (ECF No. 1) is **denied without prejudice**.

25 **IT IS FURTHER ORDERED** that Plaintiff has until **January 26, 2024** to file an
26 updated application to proceed *in forma pauperis* as specified in this order or pay the filing fee.
27 Failure to timely comply with this order may result in a recommendation to the district judge that
28 this case be dismissed.

1 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to mail Plaintiff
2 a copy of this order and of the Long Form application to proceed *in forma pauperis* and its
3 instructions.²

4 **IT IS FURTHER ORDERED** that Plaintiff's motions (ECF Nos. 4 and 5) are **denied**.

5 **IT IS FURTHER ORDERED** that Plaintiff must update his address on or before
6 **January 26, 2024**. Failure to timely comply with this order may result in a recommendation to
7 the district judge that this case be dismissed.

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9 DATED: December 27, 2023

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12 DANIEL J. ALBREGTS
13 UNITED STATES MAGISTRATE JUDGE
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27 _____
28 ² This form and its instructions can also be found at <https://www.nvd.uscourts.gov/court-information/forms/> under Code AO 239.